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INTERSTATE COMMERCE COMMISSION

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I.C.C. DIVISION B.R.
FEE OPERATION

MANUFACTURING AGREEMENT

Dated as of May 1, 1972

AMONG

BETHLEHEM STEEL CORPORATION,

FIRST WESTERN BANK AND TRUST
COMPANY, AS TRUSTEE,

AND

TRAILER TRAIN COMPANY

Covering 98 Railroad Flat Cars

MANUFACTURING AGREEMENT dated as of May 1, 1972, among the corporation named in Item 1 of Annex A hereto (hereinafter called the Manufacturer), FIRST WESTERN BANK AND TRUST COMPANY, a California banking corporation (hereinafter called the Company), acting as trustee under a Trust Agreement dated as of May 1, 1972 between the Company and NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS, and TRAILER TRAIN COMPANY, a Delaware corporation (hereinafter called the Lessee).

WHEREAS the Manufacturer agrees to construct, sell and deliver to the Company and the Company agrees to purchase the units of new, standard gauge railroad equipment described in Annex B attached hereto (hereinafter called the Equipment); and

WHEREAS in consideration of the execution and delivery of this Agreement, the purchase agreements, purchase orders or other agreements, if any, heretofore executed between the Lessee and the Manufacturer covering the Equipment are hereby cancelled in so far as they relate to the Equipment; and

WHEREAS the Company is entering into an Equipment Trust Agreement dated as of the date hereof (hereinafter called the Equipment Trust Agreement) with Manufacturers Hanover Trust Company, as Trustee (hereinafter called the Trustee), which Equipment Trust Agreement is to be substantially in the form annexed hereto as Annex C; and

WHEREAS it is contemplated that, pursuant to the Equipment Trust Agreement, there will be paid by the Trustee and the Company to the Manufacturer on the Closing Date (as hereinafter defined) the Purchase Price (as hereinafter defined) of all the Equipment; and

WHEREAS the Company, as lessor, is executing a lease of the Equipment dated as of the date hereof to the Lessee in substantially the form annexed to the Equipment Trust Agreement as Annex B (hereinafter called the Lease) and the Lessee has joined in this Agreement for the purpose of making certain agreements as hereinafter set forth.

Now, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. *Construction and Sale.* Subject to the terms and conditions hereinafter set forth, the Manufacturer will construct the Equipment at its plant set forth in Annex B hereto and will sell and deliver the Equipment as hereinbelow provided and the Company will pay or cause the Trustee to pay to the Manufacturer the Purchase Price of the Equipment, each unit of which will be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Manufacturer and the Lessee (which specifications and modifications, if any, are hereinafter called the Specifications) and will, at or before delivery thereof to the Lessee pursuant to Article 2 hereof, have the following ownership markings stencilled on each side thereof in a conspicuous place in letters not less than one inch in height:

“OWNED BY A BANK OR TRUST COMPANY UNDER A
SECURITY AGREEMENT FILED UNDER THE INTER-
STATE COMMERCE ACT, SECTION 20c”.

The Manufacturer agrees that the design, quality and component parts of the Equipment will conform to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all

standards recommended by the Association of American Railroads reasonably interpreted as being applicable to new railroad equipment of the character of such units of the Equipment as of the date of delivery thereof.

ARTICLE 2. *Delivery.* The Manufacturer will deliver the Equipment to the Lessee, as agent of the Trustee, freight charges, if any, prepaid, at such point or points within the United States of America as shall be determined by the mutual agreement of the Manufacturer and the Lessee and in accordance with the time of delivery schedule set forth in Annex B hereto, *provided, however*, that no unit of the Equipment shall be delivered under this Agreement until the Equipment Trust Agreement and the Lease shall have been filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act (and in delivering the Equipment, the Manufacturer may rely upon telegraphic advice from counsel for the Lessee that the Equipment Trust Agreement and the Lease have been so filed and recorded).

The Manufacturer and the Lessee each severally represents and warrants that, to the best of its knowledge, at the time of the delivery of the Equipment to the Lessee, as agent of the Trustee, the Equipment will be new railroad equipment and no amortization or depreciation will have been claimed by any person with respect thereto.

The Manufacturer's obligation as to time of delivery is subject to delays resulting from causes beyond the Manufacturer's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, labor shortages, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities or delays in receiving necessary materials.

Notwithstanding the preceding provisions of this Article 2, any unit of the Equipment not delivered, accepted and settled for pursuant to Article 3 hereof on or before September 15, 1972, shall be excluded from this Agreement and not included in the term "Equipment" as used in this Agreement. In the event of any such exclusion the Manufacturer, the Company and the Lessee shall execute an agreement supplemental hereto limiting this Agreement to the Equipment theretofore delivered, accepted and settled for hereunder. If the Manufacturer's failure to deliver the units of the equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, a separate agreement shall be entered into between the Manufacturer and the Lessee providing for the purchase of such excluded equipment by the Lessee on the terms herein specified, payment to be made in cash in accordance with the terms of this Agreement after delivery of such excluded equipment either directly or by means of a conditional sale, equipment trust or such other appropriate method of financing the purchase as the Lessee and the Manufacturer shall mutually determine.

The Equipment shall be subject to inspection and approval prior to delivery by inspectors or other authorized representatives of the Company (the Company hereby appoints the Lessee, or its authorized representatives, as such representative), and the Manufacturer shall grant to any such inspector or other authorized representative reasonable access to its plant. From time to time upon the completion of the construction of each unit or a number of units of the Equipment, such unit or units shall thereupon be presented to an inspector or other authorized representative of the Company and the Lessee for inspection at the Manufacturer's plant and, if each such unit conforms to the Specifications and the other require-

ments, specifications and standards set forth or referred to in Article 1 hereof, such inspector or authorized representative shall promptly execute and deliver to the Manufacturer, in such number of counterparts or copies as may reasonably be requested, a certificate of acceptance (hereinafter called a Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Company and the Trustee and are marked in accordance with Article 1 hereof; *provided, however*, that the Manufacturer shall not thereby be relieved of its warranty contained in Item 4 of Annex A hereto.

On acceptance of each of the units of the Equipment pursuant to this Article 2 on behalf of the Company and the Trustee as aforesaid, the Company assumes with respect thereto the responsibility and risk of loss or damage and the Manufacturer shall deliver to the Trustee (i) an invoice describing such unit and any special devices, racks or assemblies the cost of which is included in the Purchase Price of such unit and stating that such unit is new standard gauge railroad equipment (other than passenger or work equipment) first put into service no earlier than the date of such delivery and acceptance, and that the Purchase Price of such unit is an amount therein specified and (ii) a bill of sale transferring title to such unit to the Trustee and warranting to the Trustee, the Company and to the Lessee that at the time of such delivery the Manufacturer had legal title to such unit and good and lawful right to sell the same and that title to such unit was, at the time of such delivery of such unit, free from all claims, liens, security interests and other encumbrances of any nature except as created by this Agreement, the Equipment Trust Agreement or as permitted by Section 7.02 thereof and except for the rights of the Lessee under the Lease.

ARTICLE 3. *Purchase Price and Payment.* The base price per unit of the Equipment is set forth in Annex B hereto. Such base price, which shall include freight charges, if any, prepaid by the Manufacturer, from the Manufacturer's plant to the point of delivery, is subject to such increase or decrease as may be or has been agreed to by the Manufacturer and the Lessee including a decrease to the extent contemplated by Item 6, if any, of Annex A hereto. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or decreased. If on the Closing Date (as hereinafter defined in this Article 3) the aggregate of the Invoiced Purchase Prices (as hereinafter defined in this Article 3 and in Article 3 of the Other Agreements hereinafter referred to) for which settlement has theretofore been and is then being made under this Agreement and the other manufacturing agreements referred to in Item 2 of Annex A hereto (hereinafter called the Other Agreement), would, but for the provisions of this sentence, exceed \$5,300,000 (or such larger amount as the Company may at its option agree to), the Manufacturer and the Lessee will, upon request of the Company, enter into an agreement excluding from this Agreement such unit or units of the Equipment then proposed to be settled for as specified by the Company, as will, after giving effect to such exclusion and any concurrent exclusion under the Other Agreements, reduce such aggregate Invoiced Purchase Prices under both this Agreement and the Other Agreements to not more than \$5,300,000 (or such larger amount as aforesaid); and the Lessee agrees to purchase on the terms herein specified any such unit or units of the Equipment so excluded from this Agreement from the Manufacturer for cash on the Closing Date, either directly or, if the Manufacturer and the Lessee shall mutually agree, by means of a conditional sale, equipment trust or other ap-

appropriate method of financing; in which event the Company shall execute such instruments and take such other action as shall be reasonably requested by the Lessee to vest in the Lessee or its designee, full title to such unit or units.

The Equipment shall be settled for on one or more Closing Dates (fixed as hereinafter provided) as specified in Item 3 of Annex A hereto (the Equipment settled for on each Closing Date being hereinafter called a Group).

Subject to the provisions of Article 4 hereof, the Company hereby promises to pay or cause to be paid in cash to the Manufacturer at such place as the Manufacturer may designate, on each Closing Date with respect to a Group, an amount equal to (i) the Purchase Price of all units of the Equipment in the Group as set forth in the invoice or invoices therefor (such invoiced prices being herein called the Invoiced Purchase Prices) and (ii) if such Closing Date is later than the 31st day following the date of delivery and acceptance of a unit pursuant to Article 2 hereof, interest on the Invoiced Purchase Price of such unit from such 31st day to and including such Closing Date at a rate per annum equal to the prime rate which the Trustee would charge on such Closing Date for 90-day loans to borrowers of the highest credit standing.

The term "Closing Date" with respect to any Group of the Equipment shall mean September 15, 1972 or such earlier date following the date of deposit of the net proceeds of the sale of the Equipment Trust Certificates (hereinafter called the Equipment Trust Certificates) issued pursuant to Section 2.01 of the Equipment Trust Agreement, following presentation by the Manufacturer to the Lessee of the invoice and the Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Company and the Lessee by written notice delivered to the Manufacturer at least five business days prior to the Closing Date designated

therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and legal holidays or days on which banking institutions are authorized by law to close in The City of New York.

If the Manufacturer shall not receive on the Closing Date with respect to a Group of the Equipment the amounts payable to the Manufacturer in respect of such Group pursuant to the third paragraph of this Article 3, the Manufacturer will promptly notify the Company and the Lessee of such event and, if such amount shall not have been previously paid and the Manufacturer shall have otherwise complied with the conditions of this Agreement to entitle the Manufacturer to receive payment hereunder, the Lessee will, not later than 90 days after the Closing Date, make payment to the Manufacturer of such amounts, together with interest on the Invoiced Purchase Prices from such Closing Date to the date of payment by the Lessee at the rate of 8% per annum or the maximum rate permitted by law, whichever is the lesser; in which event the Company shall execute such instruments and take such other action as shall be reasonably requested by the Lessee to vest in the Lessee or its designee full title to such Equipment. If the Lessee shall not make payment as aforesaid, the Company shall execute such instruments and take such other action as shall be reasonably requested by the Manufacturer to vest in the Manufacturer or its designee full title to such Equipment, whereupon the Manufacturer may, at its election, sell, lease, retain or otherwise dispose of such Equipment as may be permitted by law, *provided, however*, that the Lessee shall not thereby be relieved of its obligations to make payment to the Manufacturer as aforesaid.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

Upon payment to the Manufacturer for any Group of Equipment as provided for in this Agreement, any and all claims, liens, security interests or other encumbrances of any nature of the Manufacturer with respect to title to such Group of Equipment under this Agreement shall forthwith cease and determine.

ARTICLE 4. *Conditions to Obligations of the Company.* The obligation of the Company under this Agreement to pay or cause to be paid to the Manufacturer any amount required to be paid pursuant to the third paragraph of Article 3 hereof with respect to any Group of the Equipment is subject to the satisfaction, on or prior to the Closing Date, of the following conditions:

(a) the Company shall have received the following documents in such number of counterparts or copies as may reasonably be requested in form and substance satisfactory to it:

(i) the bill or bills of sale from the Manufacturer to the Trustee, referred to in the last paragraph of Article 2 hereof, with respect to the Equipment in such Group;

(ii) the Certificate or Certificates of Acceptance with respect to the Equipment in such Group, referred to in the fifth paragraph of Article 2 hereof and the Lessee's Certificate with respect thereto referred to in § 1 of the Lease;

(iii) the invoice or invoices with respect to the Equipment in such Group referred to in the last paragraph of Article 2 hereof, accompanied by or having endorsed thereon a certification by the Lessee as to the correctness of the prices of such Equipment as set forth in said invoices;

(vi) a Lessee's Certificate (as defined in the Equipment Trust Agreement) dated the Closing Date to the effect that no Event of Default (as defined in the Equipment Trust Agreement) which relates to the Lessee nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for in the Equipment Trust Agreement or in the Lease would constitute such an Event of Default thereunder shall have occurred and be continuing;

(vii) the opinions of counsel required by §§ 14 and 15 of the Lease;

(viii) such other documents as the Company may reasonably request; and

(b) the Company and the Lessee shall have entered into the Other Agreements with the respective party thereto.

In giving the opinions specified in clauses (iv) and (v) of subparagraph (a) of the first paragraph of this Article 4, counsel may qualify any opinion to the effect that any agreement is a legal and valid instrument, binding and enforceable in accordance with its terms by a general reference to limitations as to enforceability imposed by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' or lessors' rights generally. In giving the opinion specified in Item (F) of clause (iv) of subparagraph (a) of the first paragraph of this Article 4, counsel may rely as to the Manufacturer's title to the Equipment immediately prior to the time of delivery thereof under this Agreement, on the opinion of counsel for the Manufacturer.

ARTICLE 5. *Warranties.* The agreement of the parties relating to the Manufacturer's warranty of materials and workmanship is set forth in Item 4 of Annex A hereto, which said Item 4 is by this reference made a part hereof.

ARTICLE 6. *Patent Indemnities.* Except in case of designs, processes or combinations specified by the Lessee and not developed or purported to be developed by the Manufacturer, and articles and materials specified by the Lessee and not manufactured by the Manufacturer, the Manufacturer agrees to indemnify, protect and hold harmless the Company and the Lessee from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Company and the Lessee because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process, combination, article or material infringing or claimed to infringe on any patent or other right. The Lessee likewise will indemnify, protect and hold harmless the Manufacturer and the Company from and against any and all liability, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Manufacturer or the Company, as the case may be, because of the use in or about the construction or operation of the Equipment, or any unit thereof, of any design, process or combination specified by the Lessee and not developed or purported to be developed by the Manufacturer, or article or material specified by the Lessee and not manufactured by the Manufacturer, which infringes or is claimed to infringe on any patent or other right. The Manufacturer agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, transfer, assign, set over and deliver to the

Lessee every claim, right and cause of action which the Manufacturer has or hereafter shall have against the originator or seller or sellers of any design, process, combination, article or material specified by the Lessee and used by the Manufacturer in or about the construction or operation of the Equipment, or any unit thereof, on the ground that any such design, process, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right, and the Manufacturer further agrees to execute and deliver to the Lessee all and every such further assurances as may be reasonably requested by the Lessee more fully to effectuate the assignment, transfer and delivery of every such claim, right and cause of action. The Manufacturer will give notice to the Lessee of any claim known to the Manufacturer from which liability may be charged against the Lessee hereunder and the Company and the Lessee, respectively, will give notice to the Manufacturer of any claim known to the Company or the Lessee, as the case may be, on the basis of which liability may be charged against the Manufacturer hereunder.

ARTICLE 7. *Taxes.* All payments to be made or caused to be made by the Company or the Lessee hereunder will be free of expense to the Manufacturer with respect to the amount of any local, state or federal taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales taxes], franchise taxes measured by net income based on such receipts, excess profits and similar taxes), assessments, license fees, charges, fines or penalties levied or imposed upon, or in connection with, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which taxes, assessments, license fees, charges, fines or penalties the Company or the Lessee, as the case may be, assumes and agrees to pay on demand in addition

ANNEX B—BETHLEHEM STEEL CORPORATION

Type	Manufacturer's Specifications	Quantity	Lessee's Road Numbers (All Inclusive)	Unit Base Price	Total Base Price	Date of Delivery
89'4" 70-ton capacity, standard level, auto frame flat cars	Per latest TTX Specification	62	158315 to 158376	\$15,295.00	\$ 948,290.00	May-July, 1972
		36	964117 to 964152	17,950.00	646,200.00	May-July, 1972
		98			\$1,594,490.00	

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be duly executed as of the date first above written.

BETHLEHEM STEEL CORPORATION,

by *J. F. Walker*
Vice President.

[CORPORATE SEAL]

Attest:

C. A. Barnette
Assistant Secretary

FIRST WESTERN BANK AND TRUST

COMPANY,
as Trustee,

by *Chas. J. Swell*
Trust Officer.

[CORPORATE SEAL]

Attest:

Glenn H. Johnston
Assistant Secretary

TRAILER TRAIN COMPANY,

by *W. L. ...*
Vice-President—Finance.

[CORPORATE SEAL]

Attest:

A. J. ...
Assistant Secretary

have been thus defective. **This warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Manufacturer, except for its obligations under Articles 1, 2, 3 and 6 of the Agreement.** The Manufacturer neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

The Manufacturer further agrees that neither the inspection as provided in Article 2 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company and/or the Lessee of any of their rights under this Item 4.

It is further understood and agreed that the word "design(s)" as used herein and in Article 6 of the Agreement and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

- Item 5: Manager of Sales, Railroad Products, Bethlehem Steel Corporation, Bethlehem, Pennsylvania 18016.
- Item 6: In the event that any lower base prices than those set forth in Annex B to the Agreement are made by the Manufacturer on railroad equipment similar in type to any unit of the Equipment, the Manufacturer agrees to make a corresponding reduction in the base price of any such unit of the Equipment delivered pursuant to Article 2 of the Agreement on or after the date of said price reduction.

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BETHLEHEM STEEL CORPORATION,

by *J. F. Walker*
Vice President.

[CORPORATE SEAL]

Attest:

C. A. Barnette
Assistant Secretary

FIRST WESTERN BANK AND TRUST

COMPANY,
as Trustee,

by *Chas. J. Swell*
Trust Officer.

[CORPORATE SEAL]

Attest:

Glenn H. Johnston
Assistant Secretary

TRAILER TRAIN COMPANY,

by *W. L. ...*
Vice-President—Finance.

[CORPORATE SEAL]

Attest:

A. J. ...
Assistant Secretary

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF NORTHAMPTON } ss.:

On this 12th day of May, 1972, before me personally appeared **J. H. WALKER**, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

My Commission Expires

City of Bethlehem

[NOTARIAL SEAL]

Northampton County

October 13, 1974

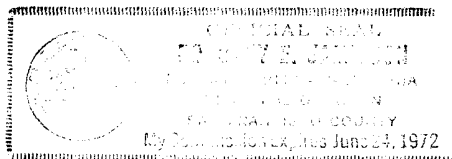
Evelyn S. Walker
Notary Public

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this 10th day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


[NOTARIAL SEAL]

A. M. G. Russell
Notary Public



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this ~~11~~²⁴ day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL.]

ANNEX A—BETHLEHEM STEEL CORPORATION

- Item 1: Bethlehem Steel Corporation, a Delaware corporation.
- Item 2: The Manufacturing Agreements dated as of May 1, 1972, among the Company, the Lessee and ACF Industries, Incorporated and Pullman Incorporated (Pullman-Standard Division), respectively.
- Item 3: For the purpose of making settlement, the Equipment shall be settled for in not more than three Groups of units of the Equipment delivered to and accepted by the Lessee, as agent for the Trustee.
- Item 4: *Manufacturer's Warranty of Materials and Workmanship.* The Manufacturer warrants that the units of the Equipment will be built in accordance with the Specifications and with the other requirements, specifications and standards set forth or referred to in Article 1 of the Manufacturing Agreement to which this Annex A is attached (hereinafter called the Agreement) and warrants the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Manufacturer) and workmanship or design (except as to designs specified by the Lessee and not developed or purported to be developed by the Manufacturer) under normal use and service; the Manufacturer's obligation under this paragraph being limited to making good at its plant any part or parts of any unit of the Equipment which shall be returned to the Manufacturer, with transportation charges prepaid, within one year after the delivery of such unit and which the Manufacturer's examination shall disclose to its satisfaction to

have been thus defective. **This warranty is expressly in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose, and of all other obligations or liabilities on the part of the Manufacturer, except for its obligations under Articles 1, 2, 3 and 6 of the Agreement.** The Manufacturer neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment, except as aforesaid.

The Manufacturer further agrees that neither the inspection as provided in Article 2 of the Agreement, nor any examination, nor the acceptance of any units of the Equipment as provided in said Article 2, shall be deemed a waiver or modification by the Company and/or the Lessee of any of their rights under this Item 4.

It is further understood and agreed that the word "design(s)" as used herein and in Article 6 of the Agreement and the word "specialties" as used herein shall be deemed to include articles, materials, systems, formulae and processes.

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ANNEX B—BETHLEHEM STEEL CORPORATION

Type	Manufacturer's Specifications	Quantity	Lessee's Road Numbers (All Inclusive)	Unit Base Price	Total Base Price	Date of Delivery
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		98			\$1,594,490.00	

EQUIPMENT TRUST DUE OCTOBER 1, 1987

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

Equipment Trust Agreement

Dated as of May 1, 1972

AMONG

**MANUFACTURERS HANOVER TRUST COMPANY,
Trustee,**

**FIRST WESTERN BANK AND TRUST COMPANY,
as Trustee,**

AND

TRAILER TRAIN COMPANY

EQUIPMENT TRUST AGREEMENT dated as of May 1, 1972, among MANUFACTURERS HANOVER TRUST COMPANY, a corporation duly organized and existing under the laws of the State of New York, as Trustee (hereinafter called the Trustee), FIRST WESTERN BANK AND TRUST COMPANY, a banking corporation duly organized and existing under the laws of the State of California (hereinafter called the Company), as trustee under a Trust Agreement dated as of May 1, 1972 (hereinafter called the Trust Agreement) between the Company and NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS, and TRAILER TRAIN COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the Guarantor or the Lessee).

WHEREAS the Company has agreed to cause to be transferred to the Trustee the railroad equipment described in Annex A hereto subject to the provisions hereof; and

WHEREAS security title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to the Company hereunder until full title is transferred to the Company under the provisions hereof; and

WHEREAS Equipment Trust Certificates, due October 1, 1987 (hereinafter called Trust Certificates), bearing the unconditional guaranty of the Guarantor, are to be issued and sold hereunder in an aggregate principal amount not exceeding \$3,910,000 at a price not less than 100% of the principal amount thereof, and the net proceeds of such sale are to be deposited with the Trustee to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment (as hereinafter defined), the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS the Company proposes to enter into a Lease of Equipment to be dated as of May 1, 1972 (hereinafter called the Lease) with the Lessee pursuant to which the Company will lease such railroad equipment to the Lessee; and

WHEREAS the texts of the Trust Certificates and the guaranty to be endorsed thereon by the Guarantor are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE]

\$.....

No

EQUIPMENT TRUST DUE OCTOBER 1, 1987

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

EQUIPMENT TRUST CERTIFICATE

Total Authorized Issue
\$3,910,000

MANUFACTURERS HANOVER TRUST COMPANY, Trustee

Dividends at the Rate of % Per Annum Payable
April 1 and October 1

MANUFACTURERS HANOVER TRUST COMPANY, as Trustee under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of May 1, 1972, among MANUFACTURERS HANOVER TRUST COMPANY, Trustee (hereinafter called the Trustee) FIRST WESTERN BANK AND TRUST COMPANY, as trustee (hereinafter called the Company) and TRAILER TRAIN COMPANY (hereinafter called the Guarantor), hereby certifies that

or registered assigns, is entitled to an interest in the principal amount of \$3,910,000 in the EQUIPMENT TRUST DUE OCTOBER 1, 1987, UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND DIVIDENDS BY TRAILER TRAIN COMPANY, payable on October 1, 1987,

upon presentation and surrender of this Certificate to the Trustee at its corporate trust office in the Borough of Manhattan, City and State of New York, and to payment of dividends on the unpaid principal amount represented by this Certificate from the date hereof until the principal amount hereof is due and payable, at the rate of % per annum, payable semiannually on April 1 and October 1 in each year, with interest at the rate of % per annum on any overdue principal and dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an authorized issue of Certificates all having a final maturity of October 1, 1987, and having an aggregate principal amount of \$3,910,000, all issued or to be issued under and subject to the terms of the Agreement under which certain railroad equipment leased to the Company and in turn leased to the Guarantor (or, in lieu thereof, cash or obligations defined in the Agreement as Authorized Investments) is held by the Trustee in trust for the equal and ratable benefit of the holders of Certificates, to which Agreement (a copy of which is on file with the Trustee at its said office) reference is made for a full statement of the rights and obligations of the Company and the Guarantor, the duties and immunities of the Trustee and the rights of the holder hereof thereunder. The Company has no personal liability to the holders of the Certificates and its obligations under the Agreement are limited as provided therein.

As a sinking fund for the Certificates, the Agreement provides for the payment by the Company to the Trustee, but only out of moneys received by the Company as contemplated by the Agreement, on or before April 1 and October 1 in each year, commencing April 1, 1978, and continuing to and including April 1, 1987, of rental calculated as provided in the Agreement so that the aggregate of the dividends and sinking fund rental payments payable on each such date and the aggregate of dividends and principal payable on October 1,

the payment of the interest and principal, (b) commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof which are rated "A" or better by Standard & Poor's Corporation and (c) certificates of deposit of or time deposits in banks or trust companies incorporated and doing business under the laws of the United States of America or one of the states thereof having a capital and surplus aggregating at least \$50,000,000; all of which shall mature within one year or less.

Business Day shall mean any calendar day, excluding Saturday, Sunday and legal holidays or days on which banking institutions are authorized by law to close in The City of New York.

Casualty Occurrence shall mean any occurrence specified in Section 5.07 hereof to be a Casualty Occurrence.

Certificate of Acceptance shall mean a Certificate of Acceptance (as defined in a Manufacturing Agreement).

Corporate Trust Office shall mean the principal office of the Trustee in the City and State of New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, at the date of execution of this Agreement, located at 40 Wall Street, New York, New York 10015.

Cost, when used with respect to the Equipment, shall mean the actual cost thereof (including freight charges, if any, from an Owner's plant to a point of delivery to the Lessee and applicable local or state sales taxes, if any, and including only such other items as may be properly included in such cost under sound accounting practice), as evidenced by an Owner's invoice with respect to such Equipment.

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.01 hereof, (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(a)(ii) hereof and on deposit with the Trustee and (c), when required or indicated by the context, any Authorized Investments purchased by the use of Deposited Cash pursuant to the provisions of Section 9.04 hereof and held by the Trustee.

Equipment shall mean new standard gauge railroad equipment, other than passenger equipment or work equipment, first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Trustee, but shall not include any special devices, racks or assemblies, at any time attached or affixed to any such cars, the cost or purchase price of which is not included in the Cost of such cars and the title to which is in a person, firm or corporation other than the Company, the Lessee or the Trustee.

Event of Default shall mean any event specified in Section 6.01 hereof to be an Event of Default.

The *Fair Value* of any unit of Trust Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the Trust Certificates outstanding on such date (after giving effect to any prepayment thereof on such date pursuant to Section 3.01(a) hereof) by a fraction of which the numerator shall be the Cost of such unit and the denominator shall be the Cost of all units (including such unit) subject to the trust on such date.

The word *holder*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and shall mean the registered owner of a Trust Certificate.

Lease shall mean the Lease of Equipment dated as of April 1, 1972, between the Company and the Lessee substantially in the form of Annex B hereto, as the same may be supplemented as contemplated hereby or thereby.

Lessee's Certificate shall mean a certificate signed by the President, any Vice President, the Secretary or any Assistant Secretary and by the Treasurer or any Assistant Treasurer of the Lessee.

Manufacturing Agreement shall mean any one of the three Manufacturing Agreements dated as of May 1, 1972, among the Company, the Lessee and ACF Industries, Incorporated, Pullman Incorporated (Pullman-Standard Division) and Bethlehem Steel Corporation, respectively.

SECTION 3.03. *Payment of Trust Certificates Selected for Prepayment.* Notice of prepayment having been given as above provided, and there having been deposited with the Trustee on or before the prepayment date specified in the notice of prepayment, an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof then to be prepaid and accrued dividends, the Trust Certificates or portions thereof to be prepaid shall become due and payable on such prepayment date and from and after such prepayment date dividends on such Trust Certificates or portions thereof shall cease to accrue and such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Trust Certificates or portions thereof to be prepaid and (subject to the provisions of the second sentence of the third paragraph of Section 2.02 hereof) shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Sections 2.02 and 3.02 hereof, all Trust Certificates prepaid under this Article Three shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof.

Upon Request, the Trustee shall deliver to the Company canceled Trust Certificates held by the Trustee or, if so directed by the Company, may destroy such Trust Certificates and deliver to the Company a certificate of destruction.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 4.01. *Acquisition of Equipment by Trustee.* The Company shall cause to be sold, assigned and transferred to the Trustee, as trustee for the holders of the Trust Certificates, the Equipment described in Annex A hereto. Such Equipment shall be delivered to the

the payment of the interest and principal, (b) commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof which are rated "A" or better by Standard & Poor's Corporation and (c) certificates of deposit of or time deposits in banks or trust companies incorporated and doing business under the laws of the United States of America or one of the states thereof having a capital and surplus aggregating at least \$50,000,000; all of which shall mature within one year or less.

Business Day shall mean any calendar day, excluding Saturday, Sunday and legal holidays or days on which banking institutions are authorized by law to close in The City of New York.

Casualty Occurrence shall mean any occurrence specified in Section 5.07 hereof to be a Casualty Occurrence.

Certificate of Acceptance shall mean a Certificate of Acceptance (as defined in a Manufacturing Agreement).

Corporate Trust Office shall mean the principal office of the Trustee in the City and State of New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, at the date of execution of this Agreement, located at 40 Wall Street, New York, New York 10015.

Cost, when used with respect to the Equipment, shall mean the actual cost thereof (including freight charges, if any, from an Owner's plant to a point of delivery to the Lessee and applicable local or state sales taxes, if any, and including only such other items as may be properly included in such cost under sound accounting practice), as evidenced by an Owner's invoice with respect to such Equipment.

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.01 hereof, (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(a)(ii) hereof and on deposit with the Trustee and (c), when required or indicated by the context, any Authorized Investments purchased by the use of Deposited Cash pursuant to the provisions of Section 9.04 hereof and held by the Trustee.

Equipment shall mean new standard gauge railroad equipment, other than passenger equipment or work equipment, first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Trustee, but shall not include any special devices, racks or assemblies, at any time attached or affixed to any such cars, the cost or purchase price of which is not included in the Cost of such cars and the title to which is in a person, firm or corporation other than the Company, the Lessee or the Trustee.

Event of Default shall mean any event specified in Section 6.01 hereof to be an Event of Default.

The *Fair Value* of any unit of Trust Equipment on any date shall be deemed to be an amount computed by multiplying the unpaid principal amount of the Trust Certificates outstanding on such date (after giving effect to any prepayment thereof on such date pursuant to Section 3.01(a) hereof) by a fraction of which the numerator shall be the Cost of such unit and the denominator shall be the Cost of all units (including such unit) subject to the trust on such date.

The word *holder*, when used with respect to Trust Certificates, shall include the plural as well as the singular number and shall mean the registered owner of a Trust Certificate.

Lease shall mean the Lease of Equipment dated as of April 1, 1972, between the Company and the Lessee substantially in the form of Annex B hereto, as the same may be supplemented as contemplated hereby or thereby.

Lessee's Certificate shall mean a certificate signed by the President, any Vice President, the Secretary or any Assistant Secretary and by the Treasurer or any Assistant Treasurer of the Lessee.

Manufacturing Agreement shall mean any one of the three Manufacturing Agreements dated as of May 1, 1972, among the Company, the Lessee and ACF Industries, Incorporated, Pullman Incorporated (Pullman-Standard Division) and Bethlehem Steel Corporation, respectively.

SECTION 3.03. *Payment of Trust Certificates Selected for Prepayment.* Notice of prepayment having been given as above provided, and there having been deposited with the Trustee on or before the prepayment date specified in the notice of prepayment, an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof then to be prepaid and accrued dividends, the Trust Certificates or portions thereof to be prepaid shall become due and payable on such prepayment date and from and after such prepayment date dividends on such Trust Certificates or portions thereof shall cease to accrue and such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Trust Certificates or portions thereof to be prepaid and (subject to the provisions of the second sentence of the third paragraph of Section 2.02 hereof) shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Sections 2.02 and 3.02 hereof, all Trust Certificates prepaid under this Article Three shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof.

Upon Request, the Trustee shall deliver to the Company canceled Trust Certificates held by the Trustee or, if so directed by the Company, may destroy such Trust Certificates and deliver to the Company a certificate of destruction.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 4.01. *Acquisition of Equipment by Trustee.* The Company shall cause to be sold, assigned and transferred to the Trustee, as trustee for the holders of the Trust Certificates, the Equipment described in Annex A hereto. Such Equipment shall be delivered to the

Lessee, which is hereby designated by the Trustee as its agent to receive such delivery, and a Lessee's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable (i) to procure for the use of the Company, and to include in the trust created hereby, other Equipment in lieu of any of the Equipment specifically described in Annex A hereto prior to the delivery of such Equipment to the Lessee as agent for the Trustee or (ii) to exclude from such trust any of the Equipment specifically described in Annex A hereto prior to settlement therefor pursuant to Section 4.02 hereof, the Company may, in its discretion, (x) in the case of Equipment to be substituted hereunder pursuant to the foregoing clause (i), cause such other Equipment to be sold, assigned and transferred to the Trustee, to be substituted under such trust, or (y) in the case of Equipment to be excluded from such trust pursuant to the foregoing clause (ii), direct the Trustee, by Request, to execute and deliver such instruments and take such other action as may be necessary to exclude such Equipment from such trust and vest title to such Equipment in the Company or its designee. Notwithstanding the foregoing, any Equipment excluded pursuant to clause (y) above and any Equipment not delivered and settled for pursuant to this Article Four on or before September 15, 1972 (herein called the Cut-Off Date), shall be excluded from this Agreement and not included in the term Trust Equipment. In the event of any such exclusion or substitution, the Company, the Guarantor and the Trustee shall execute an agreement supplemental hereto limiting this Agreement to the Trust Equipment theretofore accepted and settled for hereunder and, in the case of Equipment delivered but not so settled for, the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the original Owner or Owners thereof, unless payment therefor to such Owner or Owners shall have been made pursuant to one or more of the Manufacturing Agreements, in which case the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the party making payment therefor and the Trustee shall execute for record in public offices, at the expense of the Lessee, such instrument or instruments in writing as reasonably shall be re-

quested by such party in order to make clear upon public records such party's full title to such Trust Equipment under the laws of any jurisdiction.

In the event that on the Cut-Off Date any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell, prior to October 1, 1972, all Authorized Investments then held by it and (b) apply Deposited Cash and any amount payable in respect of such Authorized Investments pursuant to Section 5.04(a)(ii) to the prepayment of Trust Certificates on October 1, 1972, as provided in Article Three hereof.

SECTION 4.02. *Payment of Deposited Cash.* For the purpose of settlement therefor, the Equipment shall be divided into not more than three groups of units of Equipment (each such group being hereinafter called a Group), each Group to consist of such units of the Equipment delivered to and accepted by the Company as the Guarantor may specify in the written notice delivered as provided in the next succeeding sentence. The term "Settlement Date" with respect to any Group shall mean such date (not earlier than the date of deposit of the net proceeds of the sale of the Trust Certificates pursuant to Section 2.01 hereof, and not later than the Cut-Off Date), following presentation by the Owner or Owners to the Guarantor of the invoice or invoices and Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Company and the Guarantor by written notice delivered to the Owner or Owners and the Trustee at least five Business Days prior to the Settlement Date designated therein. From time to time, when and as any Group of Trust Equipment shall have been delivered to the Lessee, as agent for the Trustee, pursuant to Section 4.01 hereof the Trustee shall, subject to the provisions of Sections 4.03 and 4.04 hereof, pay on the Settlement Date, upon Request, to the Owner or Owners of the delivered Trust Equipment out of Deposited Cash an amount specified in such Request not exceeding 73.85% of the aggregate Cost of Trust Equipment then delivered to the Trustee.

SECTION 4.03. *Payment of Deficiency.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant

to Section 4.02 hereof with respect to any Trust Equipment, but subject to the provisions of Section 4.05 hereof, it will pay to the Owner or Owners of the delivered Trust Equipment that portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 4.02 hereof. It is understood and agreed, however, that, unless the Company shall otherwise agree, the total Cost of the Trust Equipment shall not exceed \$5,300,000.

SECTION 4.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash pursuant to Section 4.02 hereof with respect to any of the Trust Equipment unless and until it shall have received:

(a) one or more duly executed Certificates of Acceptance with respect to such Trust Equipment and a Lessee's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered and has been marked in accordance with the provisions of Section 5.06 hereof;

(b) an invoice or invoices from the Owner or Owners and a Lessee's Certificate which shall describe any special devices, racks or assemblies constituting a part of any unit of such Trust Equipment and shall state that such Trust Equipment is Equipment as herein defined (having been first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Trustee) and that the Cost of such Trust Equipment is an amount therein specified, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.03 hereof;

(c) a bill or bills of sale of such Trust Equipment from the Owner or Owners to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee and to the Company that at the time of sale the Owner or Owners had legal title to the Trust Equipment described therein and good and lawful right to sell such Trust Equipment and that the title to such Trust

Lessee, which is hereby designated by the Trustee as its agent to receive such delivery, and a Lessee's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable (i) to procure for the use of the Company, and to include in the trust created hereby, other Equipment in lieu of any of the Equipment specifically described in Annex A hereto prior to the delivery of such Equipment to the Lessee as agent for the Trustee or (ii) to exclude from such trust any of the Equipment specifically described in Annex A hereto prior to settlement therefor pursuant to Section 4.02 hereof, the Company may, in its discretion, (x) in the case of Equipment to be substituted hereunder pursuant to the foregoing clause (i), cause such other Equipment to be sold, assigned and transferred to the Trustee, to be substituted under such trust, or (y) in the case of Equipment to be excluded from such trust pursuant to the foregoing clause (ii), direct the Trustee, by Request, to execute and deliver such instruments and take such other action as may be necessary to exclude such Equipment from such trust and vest title to such Equipment in the Company or its designee. Notwithstanding the foregoing, any Equipment excluded pursuant to clause (y) above and any Equipment not delivered and settled for pursuant to this Article Four on or before September 15, 1972 (herein called the Cut-Off Date), shall be excluded from this Agreement and not included in the term Trust Equipment. In the event of any such exclusion or substitution, the Company, the Guarantor and the Trustee shall execute an agreement supplemental hereto limiting this Agreement to the Trust Equipment theretofore accepted and settled for hereunder and, in the case of Equipment delivered but not so settled for, the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the original Owner or Owners thereof, unless payment therefor to such Owner or Owners shall have been made pursuant to one or more of the Manufacturing Agreements, in which case the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the party making payment therefor and the Trustee shall execute for record in public offices, at the expense of the Lessee, such instrument or instruments in writing as reasonably shall be re-

quested by such party in order to make clear upon public records such party's full title to such Trust Equipment under the laws of any jurisdiction.

In the event that on the Cut-Off Date any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell, prior to October 1, 1972, all Authorized Investments then held by it and (b) apply Deposited Cash and any amount payable in respect of such Authorized Investments pursuant to Section 5.04(a)(ii) to the prepayment of Trust Certificates on October 1, 1972, as provided in Article Three hereof.

SECTION 4.02. *Payment of Deposited Cash.* For the purpose of settlement therefor, the Equipment shall be divided into not more than three groups of units of Equipment (each such group being hereinafter called a Group), each Group to consist of such units of the Equipment delivered to and accepted by the Company as the Guarantor may specify in the written notice delivered as provided in the next succeeding sentence. The term "Settlement Date" with respect to any Group shall mean such date (not earlier than the date of deposit of the net proceeds of the sale of the Trust Certificates pursuant to Section 2.01 hereof, and not later than the Cut-Off Date), following presentation by the Owner or Owners to the Guarantor of the invoice or invoices and Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Company and the Guarantor by written notice delivered to the Owner or Owners and the Trustee at least five Business Days prior to the Settlement Date designated therein. From time to time, when and as any Group of Trust Equipment shall have been delivered to the Lessee, as agent for the Trustee, pursuant to Section 4.01 hereof the Trustee shall, subject to the provisions of Sections 4.03 and 4.04 hereof, pay on the Settlement Date, upon Request, to the Owner or Owners of the delivered Trust Equipment out of Deposited Cash an amount specified in such Request not exceeding 73.85% of the aggregate Cost of Trust Equipment then delivered to the Trustee.

SECTION 4.03. *Payment of Deficiency.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant

to Section 4.02 hereof with respect to any Trust Equipment, but subject to the provisions of Section 4.05 hereof, it will pay to the Owner or Owners of the delivered Trust Equipment that portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 4.02 hereof. It is understood and agreed, however, that, unless the Company shall otherwise agree, the total Cost of the Trust Equipment shall not exceed \$5,300,000.

SECTION 4.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash pursuant to Section 4.02 hereof with respect to any of the Trust Equipment unless and until it shall have received:

(a) one or more duly executed Certificates of Acceptance with respect to such Trust Equipment and a Lessee's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered and has been marked in accordance with the provisions of Section 5.06 hereof;

(b) an invoice or invoices from the Owner or Owners and a Lessee's Certificate which shall describe any special devices, racks or assemblies constituting a part of any unit of such Trust Equipment and shall state that such Trust Equipment is Equipment as herein defined (having been first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Trustee) and that the Cost of such Trust Equipment is an amount therein specified, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.03 hereof;

(c) a bill or bills of sale of such Trust Equipment from the Owner or Owners to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee and to the Company that at the time of sale the Owner or Owners had legal title to the Trust Equipment described therein and good and lawful right to sell such Trust Equipment and that the title to such Trust

Equipment is free from all claims, liens, security interests and other encumbrances of any nature except as created by the Manufacturing Agreement applicable to such Trust Equipment, this Agreement or as permitted by Section 7.02 hereof and except for the rights of the Lessee under the Lease;

(d) an Opinion of Counsel of the Lessee addressed to the Company and the Trustee to the effect that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the Trustee security title to such Trust Equipment free from all claims, liens, security interests and other encumbrances of any nature other than as provided in subparagraph (c) above: and

(e) In the case of any Trust Equipment not specifically described in Annex A hereto, an Opinion of Counsel of the Lessee addressed to the Company and the Trustee that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee, the Company and the Guarantor, that a proper supplement to the Lease in respect of such Trust Equipment has been duly executed by the Company and the Lessee and that each of such supplements has been duly filed and recorded in accordance with Section 7.03 hereof.

SECTION 4.05. *Conditions to Payment of Deficiency.* The obligation of the Company to pay to the Owner or Owners of the delivered Trust Equipment any amount required to be paid pursuant to Section 4.03 hereof with respect to any Group of the Trust Equipment is specifically subject to the following conditions:

(a) no Event of Default specified herein which relates to the Guarantor nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for herein or in the Lease would constitute such an Event of Default hereunder or under the Lease shall have occurred

SECTION 3.03. *Payment of Trust Certificates Selected for Prepayment.* Notice of prepayment having been given as above provided, and there having been deposited with the Trustee on or before the prepayment date specified in the notice of prepayment, an amount in cash equal to the aggregate principal amount of all the Trust Certificates or portions thereof then to be prepaid and accrued dividends, the Trust Certificates or portions thereof to be prepaid shall become due and payable on such prepayment date and from and after such prepayment date dividends on such Trust Certificates or portions thereof shall cease to accrue and such Trust Certificates or portions thereof shall no longer be deemed to be outstanding hereunder and shall cease to be entitled to the benefits of this Agreement except to receive payment from the moneys reserved therefor in the hands of the Trustee. The Trustee shall hold the prepayment moneys in trust for the holders of the Trust Certificates or portions thereof to be prepaid and (subject to the provisions of the second sentence of the third paragraph of Section 2.02 hereof) shall pay the same to such holders respectively upon presentation and surrender of such Trust Certificates.

Except as provided in Sections 2.02 and 3.02 hereof, all Trust Certificates prepaid under this Article Three shall be canceled by the Trustee and no Trust Certificates shall be issued hereunder in place thereof.

Upon Request, the Trustee shall deliver to the Company canceled Trust Certificates held by the Trustee or, if so directed by the Company, may destroy such Trust Certificates and deliver to the Company a certificate of destruction.

ARTICLE FOUR

ACQUISITION OF TRUST EQUIPMENT BY TRUSTEE; DEPOSITED CASH

SECTION 4.01. *Acquisition of Equipment by Trustee.* The Company shall cause to be sold, assigned and transferred to the Trustee, as trustee for the holders of the Trust Certificates, the Equipment described in Annex A hereto. Such Equipment shall be delivered to the

Lessee, which is hereby designated by the Trustee as its agent to receive such delivery, and a Lessee's Certificate as to such delivery shall be conclusive evidence of such delivery.

In the event that it may be deemed necessary or desirable (i) to procure for the use of the Company, and to include in the trust created hereby, other Equipment in lieu of any of the Equipment specifically described in Annex A hereto prior to the delivery of such Equipment to the Lessee as agent for the Trustee or (ii) to exclude from such trust any of the Equipment specifically described in Annex A hereto prior to settlement therefor pursuant to Section 4.02 hereof, the Company may, in its discretion, (x) in the case of Equipment to be substituted hereunder pursuant to the foregoing clause (i), cause such other Equipment to be sold, assigned and transferred to the Trustee, to be substituted under such trust, or (y) in the case of Equipment to be excluded from such trust pursuant to the foregoing clause (ii), direct the Trustee, by Request, to execute and deliver such instruments and take such other action as may be necessary to exclude such Equipment from such trust and vest title to such Equipment in the Company or its designee. Notwithstanding the foregoing, any Equipment excluded pursuant to clause (y) above and any Equipment not delivered and settled for pursuant to this Article Four on or before September 15, 1972 (herein called the Cut-Off Date), shall be excluded from this Agreement and not included in the term Trust Equipment. In the event of any such exclusion or substitution, the Company, the Guarantor and the Trustee shall execute an agreement supplemental hereto limiting this Agreement to the Trust Equipment theretofore accepted and settled for hereunder and, in the case of Equipment delivered but not so settled for, the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the original Owner or Owners thereof, unless payment therefor to such Owner or Owners shall have been made pursuant to one or more of the Manufacturing Agreements, in which case the Trustee shall execute a bill or bills of sale (without warranties) for such Equipment to the party making payment therefor and the Trustee shall execute for record in public offices, at the expense of the Lessee, such instrument or instruments in writing as reasonably shall be re-

quested by such party in order to make clear upon public records such party's full title to such Trust Equipment under the laws of any jurisdiction.

In the event that on the Cut-Off Date any Deposited Cash shall remain in the possession of the Trustee, the Trustee shall (a) sell, prior to October 1, 1972, all Authorized Investments then held by it and (b) apply Deposited Cash and any amount payable in respect of such Authorized Investments pursuant to Section 5.04(a)(ii) to the prepayment of Trust Certificates on October 1, 1972, as provided in Article Three hereof.

SECTION 4.02. *Payment of Deposited Cash.* For the purpose of settlement therefor, the Equipment shall be divided into not more than three groups of units of Equipment (each such group being hereinafter called a Group), each Group to consist of such units of the Equipment delivered to and accepted by the Company as the Guarantor may specify in the written notice delivered as provided in the next succeeding sentence. The term "Settlement Date" with respect to any Group shall mean such date (not earlier than the date of deposit of the net proceeds of the sale of the Trust Certificates pursuant to Section 2.01 hereof, and not later than the Cut-Off Date), following presentation by the Owner or Owners to the Guarantor of the invoice or invoices and Certificate or Certificates of Acceptance for such Group, as shall be fixed by the Company and the Guarantor by written notice delivered to the Owner or Owners and the Trustee at least five Business Days prior to the Settlement Date designated therein. From time to time, when and as any Group of Trust Equipment shall have been delivered to the Lessee, as agent for the Trustee, pursuant to Section 4.01 hereof the Trustee shall, subject to the provisions of Sections 4.03 and 4.04 hereof, pay on the Settlement Date, upon Request, to the Owner or Owners of the delivered Trust Equipment out of Deposited Cash an amount specified in such Request not exceeding 73.85% of the aggregate Cost of Trust Equipment then delivered to the Trustee.

SECTION 4.03. *Payment of Deficiency.* The Company covenants that, contemporaneously with any payment by the Trustee pursuant

to Section 4.02 hereof with respect to any Trust Equipment, but subject to the provisions of Section 4.05 hereof, it will pay to the Owner or Owners of the delivered Trust Equipment that portion of the Cost of the delivered Trust Equipment not paid out of Deposited Cash as provided for in Section 4.02 hereof. It is understood and agreed, however, that, unless the Company shall otherwise agree, the total Cost of the Trust Equipment shall not exceed \$5,300,000.

SECTION 4.04. *Supporting Papers.* The Trustee shall not pay out any Deposited Cash pursuant to Section 4.02 hereof with respect to any of the Trust Equipment unless and until it shall have received:

(a) one or more duly executed Certificates of Acceptance with respect to such Trust Equipment and a Lessee's Certificate stating that the Trust Equipment described and specified therein by number or numbers has been delivered and has been marked in accordance with the provisions of Section 5.06 hereof;

(b) an invoice or invoices from the Owner or Owners and a Lessee's Certificate which shall describe any special devices, racks or assemblies constituting a part of any unit of such Trust Equipment and shall state that such Trust Equipment is Equipment as herein defined (having been first put into service no earlier than the date of delivery to and acceptance by the Lessee, as agent for the Trustee) and that the Cost of such Trust Equipment is an amount therein specified, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.03 hereof;

(c) a bill or bills of sale of such Trust Equipment from the Owner or Owners to the Trustee, which bill or bills of sale shall contain a warranty or guaranty to the Trustee and to the Company that at the time of sale the Owner or Owners had legal title to the Trust Equipment described therein and good and lawful right to sell such Trust Equipment and that the title to such Trust

Equipment is free from all claims, liens, security interests and other encumbrances of any nature except as created by the Manufacturing Agreement applicable to such Trust Equipment, this Agreement or as permitted by Section 7.02 hereof and except for the rights of the Lessee under the Lease;

(d) an Opinion of Counsel of the Lessee addressed to the Company and the Trustee to the effect that such bill or bills of sale are valid and effective, either alone or in connection with any other instrument referred to in and accompanying such opinion, to vest in the Trustee security title to such Trust Equipment free from all claims, liens, security interests and other encumbrances of any nature other than as provided in subparagraph (c) above: and

(e) In the case of any Trust Equipment not specifically described in Annex A hereto, an Opinion of Counsel of the Lessee addressed to the Company and the Trustee that a proper supplement hereto in respect of such Trust Equipment has been duly executed by the Trustee, the Company and the Guarantor, that a proper supplement to the Lease in respect of such Trust Equipment has been duly executed by the Company and the Lessee and that each of such supplements has been duly filed and recorded in accordance with Section 7.03 hereof.

SECTION 4.05. *Conditions to Payment of Deficiency.* The obligation of the Company to pay to the Owner or Owners of the delivered Trust Equipment any amount required to be paid pursuant to Section 4.03 hereof with respect to any Group of the Trust Equipment is specifically subject to the following conditions:

(a) no Event of Default specified herein which relates to the Guarantor nor an Event of Default (as defined in the Lease), nor any event which with the lapse of time and/or notice provided for herein or in the Lease would constitute such an Event of Default hereunder or under the Lease shall have occurred

and be continuing, and the Company shall have received a Lessee's Certificate dated the date of such payment to that effect;

(b) the Company shall have received copies of the documents specified in Section 4.04 hereof, together with evidence of payment of the amount to be paid to the Owner or Owners pursuant to Section 4.02 hereof;

(c) the Company shall have received the opinions of counsel required by §§ 14 and 15 of the Lease; and

(d) the Company shall have received such other documents relating to the transactions contemplated hereby as the Company may reasonably request.

ARTICLE FIVE

LEASE OF TRUST EQUIPMENT TO THE COMPANY

SECTION 5.01. *Lease of Trust Equipment.* The Trustee does hereby let and lease all the Trust Equipment to the Company, for the term of 15 years from and after October 1, 1972.

SECTION 5.02. *Substituted Equipment Subject Hereto.* In the event that the Company shall, as provided in Section 4.01 hereof, cause to be constructed and transferred to the Trustee other Equipment in substitution for any of the Equipment herein specifically described, such other Equipment shall be included as part of the Trust Equipment by supplement hereto to be executed by the Trustee, the Company and the Guarantor and shall be subject to all the terms and conditions hereof in all respects as though it had been part of the Trust Equipment herein specifically described.

SECTION 5.03. *Equipment Automatically Subjected.* As and when any Equipment shall from time to time be accepted by the Company under a Manufacturing Agreement as evidenced by a Lessee's Certificate referred to in Section 4.04(a) hereof, the same shall be deemed accepted hereunder and shall, *ipso facto* and without further instrument or lease, transfer or acceptance pass under and become subject to all the terms and provisions hereof.

SECTION 5.04. *Rental Payments.* The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rent which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment) :

(a) from time to time upon demand of the Trustee (i) the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (ii) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale, redemption or payment at maturity by the Trustee of Authorized Investments;

(b) from time to time upon demand of the Trustee any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Agreement, which the Trustee as such may be required to pay;

(c) (i) the amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (ii) interest at the Penalty Rate from the due date, upon the amount of any instalments of rental payable under this subparagraph (c) and the following subparagraphs (d) and (e) which shall not be paid when due, to the extent legally enforceable;

(d) as a sinking fund for the Trust Certificates, on or before April 1 and October 1 in each year, commencing April 1, 1978, and continuing to and including April 1, 1987, an amount in cash calculated on such a basis that the aggregate of dividends and sinking fund rental payments payable on each such date (and the aggregate of dividends and principal payable on October 1,

1987) shall be substantially equal (subject to proportionate reduction in the event of prepayment of Trust Certificates pursuant to Section 3.01(b) hereof) and shall completely amortize the principal of and dividends on the Trust Certificates; and

(e) the principal of the Trust Certificates, when and as the same shall become payable, whether upon the stated date of maturity thereof or otherwise under the provisions thereof or of this Agreement.

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on the Company (except as provided in subparagraph (b) of this Section 5.04) any obligation to pay to the holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate. The Company shall not be required to pay any tax, assessment or governmental charge pursuant to subparagraph (b) of this Section 5.04 so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, *provided that*, in the judgment of the Trustee and as set forth in an Opinion of Counsel which shall have been furnished to the Trustee by the Company or the Lessee the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles Six and Seven hereof, it is understood and agreed by the Trustee on behalf of itself and the holders of the Trust Certificates that liability of the Company for all payments to be made by it under and pursuant to this Agreement (other than the payments called for by Section 4.03 hereof), shall not exceed an amount equal to the income and proceeds from the Trust Equipment. As used herein the term "income and proceeds from the Trust Equipment" shall mean (i) if an Event of Default shall have occurred and while it shall be con-

SECTION 5.04. *Rental Payments.* The Company hereby accepts the lease of all the Trust Equipment and covenants and agrees to accept delivery and possession hereunder of the Trust Equipment as hereinbefore provided; and the Company covenants and agrees to pay to the Trustee (or, in the case of taxes, to the proper taxing authority), in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, rent which shall be sufficient to pay and discharge the following items, when and as the same shall become due and payable (whether or not any of such items shall become due and payable prior to the delivery and lease to the Company of any of the Trust Equipment):

(a) from time to time upon demand of the Trustee (i) the necessary and reasonable expenses of the trust hereby created, including compensation and expenses provided for herein, and (ii) an amount equal to any expenses incurred or loss of principal (including interest accrued thereupon at time of purchase) in connection with any purchase, sale, redemption or payment at maturity by the Trustee of Authorized Investments;

(b) from time to time upon demand of the Trustee any and all taxes, assessments and governmental charges upon or on account of the income or property of the trust, or upon or on account of this Agreement, which the Trustee as such may be required to pay;

(c) (i) the amounts of the dividends payable on the Trust Certificates, when and as the same shall become payable, and (ii) interest at the Penalty Rate from the due date, upon the amount of any instalments of rental payable under this subparagraph (c) and the following subparagraphs (d) and (e) which shall not be paid when due, to the extent legally enforceable;

(d) as a sinking fund for the Trust Certificates, on or before April 1 and October 1 in each year, commencing April 1, 1978, and continuing to and including April 1, 1987, an amount in cash calculated on such a basis that the aggregate of dividends and sinking fund rental payments payable on each such date (and the aggregate of dividends and principal payable on October 1,

1987) shall be substantially equal (subject to proportionate reduction in the event of prepayment of Trust Certificates pursuant to Section 3.01(b) hereof) and shall completely amortize the principal of and dividends on the Trust Certificates; and

(e) the principal of the Trust Certificates, when and as the same shall become payable, whether upon the stated date of maturity thereof or otherwise under the provisions thereof or of this Agreement.

Nothing contained herein or in the Trust Certificates shall be deemed to impose on the Trustee or on the Company (except as provided in subparagraph (b) of this Section 5.04) any obligation to pay to the holder of any Trust Certificate any tax, assessment or governmental charge required by any present or future law of the United States of America or of any state, county, municipality or other taxing authority thereof to be paid in behalf of, or withheld from the amount payable to, the holder of any Trust Certificate. The Company shall not be required to pay any tax, assessment or governmental charge pursuant to subparagraph (b) of this Section 5.04 so long as it shall in good faith and by appropriate legal proceedings contest the validity thereof, *provided that*, in the judgment of the Trustee and as set forth in an Opinion of Counsel which shall have been furnished to the Trustee by the Company or the Lessee the rights or interests of the Trustee or of the holders of the Trust Certificates will not be materially endangered thereby.

Notwithstanding any other provisions of this Agreement, including, without limitation, Articles Six and Seven hereof, it is understood and agreed by the Trustee on behalf of itself and the holders of the Trust Certificates that liability of the Company for all payments to be made by it under and pursuant to this Agreement (other than the payments called for by Section 4.03 hereof), shall not exceed an amount equal to the income and proceeds from the Trust Equipment. As used herein the term "income and proceeds from the Trust Equipment" shall mean (i) if an Event of Default shall have occurred and while it shall be con-

tinuing so much of the following amounts as are indefeasibly received by the Company at any time after any Event of Default and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences paid for or with respect to the Trust Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Company pursuant to clause (i) of subparagraph (b) of the first paragraph of § 9 of the Lease or for or with respect to the Trust Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Company pursuant to the Lease as are indefeasibly received by the Company and as shall equal the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payment (including payments in respect of Casualty Occurrences) then due and payable under this Agreement; it being understood that "income and proceeds from the Trust Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Company prior to the existence of such an Event of Default which exceeded the amounts required to make the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date on which amounts with respect thereto received by the Company were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. The Trustee agrees, however, that if it obtains a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount; *provided, however*, that nothing contained herein limiting the liability of the Company shall derogate from the right of the Trustee to proceed against the Equipment or the Guarantor as provided for herein for the

to the prepayment of Trust Certificates on said date as provided in Article Three hereof.

Anything contained herein to the contrary notwithstanding, in the event that any unit of the Trust Equipment shall suffer a Casualty Occurrence, and the Company shall have been informed thereof under the Lease, prior to the settlement for such unit pursuant to Section 4.02 hereof, the Lessee's Certificate describing such unit shall state the Cost of such unit (rather than the determination of the Fair Value thereof) as shown on the invoice therefor delivered or to be delivered to the Trustee pursuant to Section 4.04(b) hereof, and the Company will, in lieu of making the payments otherwise required pursuant to the second paragraph of this Section 5.07 and Section 4.03 hereof, pay or cause the Lessee to pay directly to the Owner, on the Settlement Date applicable to such unit, an amount in cash equal to such Cost, and, if such Settlement Date is later than the 31st day following the date of acceptance of such unit pursuant to Section 5.03 hereof, interest on such Cost from such 31st day to and including such Settlement Date, at a rate of interest equal to the prime rate of interest which the Trustee would charge on such Settlement Day for ninety-day loans to borrowers of the highest credit standing, which payment shall, without further action by the Company, have the same effect and entitle the Company to the same rights and privileges hereunder as if the Company had directed the Trustee to exclude such unit from the Trust created hereby pursuant to the second paragraph of Section 4.01 hereof.

The Company covenants and agrees to furnish to the Trustee, on or before April 1 in each year, commencing with the year 1973, an Officer's Certificate or a Lessee's Certificate, as of the preceding December 31, stating (1) the amount, description and numbers of all units of Trust Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such Officer's Certificate or Lessee's Certificate) and (2) that in the case of all units of Trust Equipment repainted or repaired during the period covered thereby the marks required by Section 5.06 hereof have been preserved or replaced. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect,

at the expense of the Company, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

SECTION 5.08. *Possession of Trust Equipment.* So long as no Event of Default exists hereunder, the Company shall be entitled to the possession and use of the Trust Equipment and also to enter into the Lease which shall be subject and subordinate to this Agreement and to permit the use of the Trust Equipment as provided in the Lease.

The Company will not sell, assign or transfer its rights under this Agreement or, except as provided in this Section 5.08, transfer the right to possession of any unit of the Trust Equipment unless such assignment or transfer is made expressly subject in all respects to the rights and remedies of the Trustee hereunder.

SECTION 5.09. *Indemnity; Compliance with Laws and Rules.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any part thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Department of Transportation, the Interstate Commerce Commission and all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests

of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE SIX

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01. *Events of Default.* The Company covenants and agrees that in case (irrespective of any provision of this Agreement limiting the liability of the Company):

(a) the Company shall default in the payment of any part of the rental payable under Sections 5.04(c), (d) and (e) hereof for more than ten days after the same shall have become due and payable, or

(b) the Company shall, for more than 30 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(c) the Company shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or, except as herein authorized or contemplated, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such transfer or sublease to be canceled by agreement of all parties having any interest therein or recover possession of such Trust Equipment, as the case may be, within 30 days after the Trustee shall have demanded in writing such cancellation or recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Fair Value of such Trust Equipment (any sum so deposited to be returned to the Company

to the prepayment of Trust Certificates on said date as provided in Article Three hereof.

Anything contained herein to the contrary notwithstanding, in the event that any unit of the Trust Equipment shall suffer a Casualty Occurrence, and the Company shall have been informed thereof under the Lease, prior to the settlement for such unit pursuant to Section 4.02 hereof, the Lessee's Certificate describing such unit shall state the Cost of such unit (rather than the determination of the Fair Value thereof) as shown on the invoice therefor delivered or to be delivered to the Trustee pursuant to Section 4.04(b) hereof, and the Company will, in lieu of making the payments otherwise required pursuant to the second paragraph of this Section 5.07 and Section 4.03 hereof, pay or cause the Lessee to pay directly to the Owner, on the Settlement Date applicable to such unit, an amount in cash equal to such Cost, and, if such Settlement Date is later than the 31st day following the date of acceptance of such unit pursuant to Section 5.03 hereof, interest on such Cost from such 31st day to and including such Settlement Date, at a rate of interest equal to the prime rate of interest which the Trustee would charge on such Settlement Day for ninety-day loans to borrowers of the highest credit standing, which payment shall, without further action by the Company, have the same effect and entitle the Company to the same rights and privileges hereunder as if the Company had directed the Trustee to exclude such unit from the Trust created hereby pursuant to the second paragraph of Section 4.01 hereof.

The Company covenants and agrees to furnish to the Trustee, on or before April 1 in each year, commencing with the year 1973, an Officer's Certificate or a Lessee's Certificate, as of the preceding December 31, stating (1) the amount, description and numbers of all units of Trust Equipment that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Agreement in the case of the first such Officer's Certificate or Lessee's Certificate) and (2) that in the case of all units of Trust Equipment repainted or repaired during the period covered thereby the marks required by Section 5.06 hereof have been preserved or replaced. The Trustee, by its agents, shall have the right once in each calendar year, but shall be under no duty, to inspect,

at the expense of the Company, the Trust Equipment, and the Company covenants in that event to furnish to the Trustee all reasonable facilities for the making of such inspection.

SECTION 5.08. *Possession of Trust Equipment.* So long as no Event of Default exists hereunder, the Company shall be entitled to the possession and use of the Trust Equipment and also to enter into the Lease which shall be subject and subordinate to this Agreement and to permit the use of the Trust Equipment as provided in the Lease.

The Company will not sell, assign or transfer its rights under this Agreement or, except as provided in this Section 5.08, transfer the right to possession of any unit of the Trust Equipment unless such assignment or transfer is made expressly subject in all respects to the rights and remedies of the Trustee hereunder.

SECTION 5.09. *Indemnity; Compliance with Laws and Rules.* The Company covenants and agrees to indemnify the Trustee against any and all claims arising out of or connected with the ownership or use of any of the Trust Equipment, and particularly against any and all claims arising out of the use of any patented inventions in and about the Trust Equipment, and to comply in all respects with the laws of the United States of America and of all the states and other jurisdictions in which the Trust Equipment, or any part thereof, may be operated, and with all lawful acts, rules, regulations and orders of the Department of Transportation, the Interstate Commerce Commission and all other commissions, boards and other legislative, executive, administrative or judicial bodies or officers having power to regulate or supervise any of the Trust Equipment, including without limitation all lawful acts, rules, regulations and orders of any body having competent jurisdiction relating to automatic coupler devices or attachments, air brakes or other appliances; *provided, however*, that the Company may in good faith contest the validity of any such law, act, rule, regulation or order, or the application thereof to the Trust Equipment or any part thereof, in any reasonable manner which will not in the judgment of the Trustee materially endanger the rights or interests

of the Trustee or of the holders of the Trust Certificates. The Company shall not be relieved from any of its obligations hereunder by reason of the assertion or enforcement of any such claims or the commencement or prosecution of any litigation in respect thereof.

ARTICLE SIX

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01. *Events of Default.* The Company covenants and agrees that in case (irrespective of any provision of this Agreement limiting the liability of the Company):

(a) the Company shall default in the payment of any part of the rental payable under Sections 5.04(c), (d) and (e) hereof for more than ten days after the same shall have become due and payable, or

(b) the Company shall, for more than 30 days after the Trustee shall have demanded in writing performance thereof, fail or refuse to comply with any other of the terms and covenants hereof on its part to be kept and performed, or to make provision satisfactory to the Trustee for such compliance, or

(c) the Company shall make or suffer any unauthorized transfer or sublease (including, for the purpose of this clause, contracts for the use thereof) of any of the Trust Equipment, or, except as herein authorized or contemplated, shall part with the possession of any of the Trust Equipment, and shall fail or refuse either to cause such transfer or sublease to be canceled by agreement of all parties having any interest therein or recover possession of such Trust Equipment, as the case may be, within 30 days after the Trustee shall have demanded in writing such cancellation or recovery of possession, or within said 30 days to deposit with the Trustee a sum in cash equal to the Fair Value of such Trust Equipment (any sum so deposited to be returned to the Company

upon the cancellation of such transfer or sublease or the recovery of possession by the Company of such Trust Equipment), or

(d) any proceeding shall be commenced by or against the Company or the Guarantor for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the obligations hereunder of the Company or the Guarantor, as the case may be) and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Company or the Guarantor, as the case may be, under this Agreement (and, in the case of the Guarantor, all obligations of the Guarantor under its guaranty endorsed on the Trust Certificates) shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Company or the Guarantor or for the property of the Company or the Guarantor in connection with any such proceedings in such manner that such obligations have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier, or

(e) the Lessee shall default in the observance or performance of any of the covenants and agreements on its part contained in the Lease for the benefit of the Trustee or the holders of the Trust Certificates and such default shall continue for 30 days after the Trustee shall have demanded in writing performance thereof *unless* during such 30-day period the Company or the Lessee shall have cured or caused to be cured such default.

ment, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guaranty or other paper or document believed

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however*, that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,
Trustee,

[CORPORATE SEAL]

by
Vice President.

ATTEST:

.....
Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by
Trust Officer.

ATTEST:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

ATTEST:

.....
Assistant Secretary.

ment, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guaranty or other paper or document believed

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,
Trustee,

[CORPORATE SEAL]

by
Vice President.

ATTEST:

.....
Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by
Trust Officer.

ATTEST:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

ATTEST:

.....
Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ment, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guaranty or other paper or document believed

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,
Trustee,

[CORPORATE SEAL]

by
Vice President.

ATTEST:

.....
Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by
Trust Officer.

ATTEST:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

ATTEST:

.....
Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ment, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Trustee; and

(2) in the absence of bad faith on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement;

(b) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts or that its action or inaction was contrary to the express provisions of this Agreement;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Agreement;

(d) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, Trust Certificate, guaranty or other paper or document believed

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,
Trustee,

[CORPORATE SEAL]

by
Vice President.

ATTEST:

.....
Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by
Trust Officer.

ATTEST:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

ATTEST:

.....
Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Car Numbers (All Inclusive)</u>	<u>Unit Cost</u>	<u>Total Cost</u>
89'4" 70-ton capacity, standard level, auto frame flat cars	70	603576 to 603645	\$15,310.00	\$1,071,700.00
89'4" 70-ton capacity, standard level, all purpose flat cars	56	970745 to 970747 970750 970752 to 970803	21,300.00	1,192,800.00
89'4" 70-ton capacity, standard level, auto frame flat cars	62 36	158315 to 158376 964117 to 964152	15,295.00 17,950.00	948,290.00 646,200.00
89'4" 70-ton capacity, standard level, auto rack flat cars	7	940773 to 940779	17,550.91	122,856.37
89'4" 70-ton capacity, standard level, auto frame flat cars	70	253650 to 253719	15,300.00	1,071,000.00
89'4" 70-ton capacity, standard level, all purpose flat cars	10	972966 to 972975	21,357.00	213,570.00
	<u>311</u>			<u>\$5,266,416.37</u>

Company is acting as trustee, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement and said guaranty are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors, as such, of the Company or the Guarantor or any of them, under or by reason by any of the obligations, covenants and agreements contained in this Agreement or in said guaranty, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and said guaranty.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, covenants, undertakings and agreements of the Company are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Company, or any beneficiary of the trust under which the Company is acting on account of this Agreement or on account of any representation, covenant, undertaking or agreement of the Company or any beneficiary under the Trust Agreement, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Trustee and by all persons claiming by, through or under the Trustee; *provided, however*, that the Trustee or any person claiming by, through

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66⅔% of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however,* that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,
Trustee,

[CORPORATE SEAL]

by
Vice President.

ATTEST:

.....
Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by
Trust Officer.

ATTEST:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

ATTEST:

.....
Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Car Numbers (All Inclusive)</u>	<u>Unit Cost</u>	<u>Total Cost</u>
89'4" 70-ton capacity, standard level, auto frame flat cars	70	603576 to 603645	\$15,310.00	\$1,071,700.00
89'4" 70-ton capacity, standard level, all purpose flat cars	56	970745 to 970747 970750 970752 to 970803	21,300.00	1,192,800.00
89'4" 70-ton capacity, standard level, auto frame flat cars	62 36	158315 to 158376 964117 to 964152	15,295.00 17,950.00	948,290.00 646,200.00
89'4" 70-ton capacity, standard level, auto rack flat cars	7	940773 to 940779	17,550.91	122,856.37
89'4" 70-ton capacity, standard level, auto frame flat cars	70	253650 to 253719	15,300.00	1,071,000.00
89'4" 70-ton capacity, standard level, all purpose flat cars	10	972966 to 972975	21,357.00	213,570.00
	<u>311</u>			<u>\$5,266,416.37</u>

ANNEX B TO EQUIPMENT TRUST AGREEMENT

Lease of Equipment

BY AND BETWEEN

FIRST WESTERN BANK AND TRUST COMPANY,
as Trustee

AND

TRAILER TRAIN COMPANY

Dated as of May 1, 1972

LEASE OF EQUIPMENT dated as of May 1, 1972, between FIRST WESTERN BANK AND TRUST COMPANY, a California banking corporation (hereinafter called the Lessor), as trustee under a Trust Agreement dated as of May 1, 1972 (hereinafter called the Trust Agreement) between the Lessor and NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS (hereinafter called the Beneficiary), and TRAILER TRAIN COMPANY, a Delaware corporation (hereinafter called the Lessee).

WHEREAS as the Lessor is entering into three Manufacturing Agreements dated as of May 1, 1972 (each such Manufacturing Agreement hereinafter called a Manufacturing Agreement) with the Lessee and ACF Industries Incorporated, Pullman Incorporated (Pullman-Standard Division) and Bethlehem Steel Corporation, respectively, pursuant to which the Lessor has agreed to purchase and take delivery of the Railroad equipment described in Schedule A hereto (hereinafter sometimes called the Equipment); and

WHEREAS the Lessee has agreed to lease from the Lessor all the units of the Equipment, or such lesser number of units as are delivered and accepted and settled for under the Equipment Trust Agreement (as hereinafter defined) on or prior to September 15, 1972 (each such unit hereinafter called a Unit and collectively the Units) at the rentals and for the term and upon the conditions hereinafter provided; and

WHEREAS the Lessor and the Lessee are entering into an Equipment Trust Agreement dated as of May 1, 1972 (herein called the Equipment Trust Agreement), with Manufacturers Hanover Trust Company, as Trustee (hereinafter called the Trustee), under which security title to the Units will be reserved to the Trustee until the Lessor fulfills all its obligations under the Equipment Trust Agreement;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject and subordinate to all the rights and remedies of the Trustee under the Equipment Trust Agreement.

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit accepted pursuant to a Manufacturing Agreement to be delivered to the Lessee at the same point or points within the United States of America at which such Unit is delivered to the Lessor under such Manufacturing Agreement, such point or points, however, to be mutually acceptable to the Lessor and the Lessee. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement and complying with the provisions of Section 4.04(a) thereof), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease and such Lessee's Certificate shall be absolutely binding upon the Lessee. Any Unit excluded from or substituted under the Equipment Trust Agreement pursuant to the second paragraph of Section 4.01 thereof shall likewise be excluded from this Lease.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 31 consecutive semiannual payments, payable on April 1 and October 1 in each year commencing October 1, 1972. The first such semiannual payment shall be in an amount equal to 0.023333% of the Cost (as such term is defined in the Equipment Trust Agreement) of each Unit subject to this Lease for each day elapsed from and including the Settlement Date (as defined in Section 4.02 of the Equipment Trust Agreement) for such Unit to October 1, 1972. The next 10 such semiannual payments shall each be in an amount equal to 3.10170% of the Cost of each such Unit subject to this Lease on the date of such payment and the next 20 such semiannual payments shall each be in an amount equal to 5.53842% of the Cost of each such Unit subject to this Lease on the date of such payment. In addition, the Lessee shall pay to the Lessor (i) on the Settlement Date for each Unit, if such Settlement Date is later than the 31st day following the date of acceptance of such Unit pursuant to § 1 hereof, additional rental

in an amount equal to interest on the Cost of such Unit from such 31st day to and including the Settlement Date, at a rate per annum equal to the prime rate which the Trustee would charge on such Settlement Date for 90-day loans to borrowers of the highest credit standing and (ii) on October 1, 1972, additional rental in an amount equal to 8.40% per annum of the amount from time to time remaining on deposit with the Trustee as Deposited Cash (as defined in the Equipment Trust Agreement) from the original date of issue of the Trust Certificates (as defined in the Equipment Trust Agreement) to the date of application of such Deposited Cash or October 1, 1972, as the case may be. If any of the payment dates referred to above is not a Business Day (as defined in the Equipment Trust Agreement), the payment shall be payable on the next succeeding Business Day (without interest).

Notwithstanding anything to the contrary contained herein, any and all sums paid by the Lessee pursuant to its guaranty set forth in the first paragraph of Section 7.01 of the Equipment Trust Agreement in respect of the obligations set forth in Sections 5.04(c), (d) and (e) thereof not attributable to an Event of Default (as hereinafter defined) hereunder or to late payment shall be thereupon deemed to have been paid in reduction or satisfaction, to the extent thereof, of any rental payments then due and payable by the Lessee to the Lessor under this § 2.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, during the original term hereof (other than the rental payable pursuant to clause (i) of the fourth sentence of this § 2, and any amount payable in respect of a Unit which has not been settled for pursuant to Section 4.02 of the Equipment Trust Agreement by reason of such Unit's having suffered a Casualty Occurrence, which rental and amount shall be paid to the Lessor at the address set forth in the second sentence of this paragraph), in immediately available funds in New York City for the account of the Lessor, in care of the Trustee at its office at 40 Wall Street, New York, N. Y. 10015, attention of Corporate Trust Department, with instructions to the Trustee first to apply such payments to satisfy the obligations of the Lessor under the Equipment Trust Agreement known to the Trustee to be due and payable on the date such payments are due

Unit free and clear of all impositions which might in any way affect the title of the Lessor and the security title of the Trustee (or the interests of the holders of the Equipment Trust Certificates issued under the Equipment Trust Agreement) therein or result in a lien or security interest upon any such Unit (other than the Equipment Trust Agreement and this Lease) and will supply the Lessor and the Trustee with a receipt or other evidence of such payment satisfactory to the Lessor and the Trustee; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Trustee, adversely affect the title, property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement. If any imposition shall have been charged or levied against the Lessor or the Trustee directly and paid by the Lessor or the Trustee, the Lessee shall reimburse the Lessor or the Trustee, as the case may be, on presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee, a bona fide claim exists to all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor as aforesaid, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Trustee in the Units, if such is necessary or appropriate, or will notify the Lessor and the Trustee of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Trustee.

In the event that, during the continuance of this Lease, the Lessee shall become liable for the payment or reimbursement of any impositions pursuant to this § 5, such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§ 6. *Payment for Casualty Occurrences.* Whenever any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term or any extended term of this Lease, or until such Unit shall have been returned in the manner provided in § 13 hereof, the Lessee shall, promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, deliver to the Lessor and the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement) fully informing them with respect thereto and complying with the provisions of Section 5.07 of the Equipment Trust Agreement. On the rental payment date next succeeding the delivery of such Lessee's Certificate (or, in the event such rental payment date will occur within 60 days after such delivery, on the following rental payment date or, if this Lease, or any extended term hereof, as the case may be, shall expire before or within 60 days after such delivery on the expiration date of this Lease, or any such extended term, or any other date thereafter, within 60 days of such delivery or, in the event that such Unit shall not have then been settled for pursuant to Section 4.02 of the Equipment Trust Agreement at the time of such delivery, on the date such Unit would have been settled for but for such Casualty Occurrence) the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such payment date in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit (other than additional rental payable pursuant to clause (ii) of the fourth sentence of the first paragraph of § 2 hereof) shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall

be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the original or any extended term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee in addition to paying the Casualty Value for such Unit shall pay interest thereon at the prime rate of interest which the Trustee would charge on the date of such payment for 90-day loans to borrowers of the highest credit standing, from the end of such term to the date of such payment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have been lost, stolen or completely destroyed, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit.

Except as provided in the last sentence of this paragraph, the Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to Section 5.07 of the Equipment Trust Agreement or (y) that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

CASUALTY VALUE

Rental Payment Date No.	Percentage	Rental Payment Date No.	Percentage
1	106.5158%	17	75.4434%
2	106.5804	18	71.7782
3	107.7531	19	68.0025
4	108.5119	20	64.1101
5	109.0122	21	60.1185
6	107.9033	22	56.0182
7	104.7417	23	51.8305
8	104.7186	24	47.5427
9	104.5795	25	43.1730
10	102.9518	26	38.7053
11	99.3651	27	34.1539
12	96.4984	28	29.4999
13	93.4821	29	24.7589
14	88.9359	30	19.9107
15	82.4033	31 and thereafter	15.0000
16	78.9841		

Unit free and clear of all impositions which might in any way affect the title of the Lessor and the security title of the Trustee (or the interests of the holders of the Equipment Trust Certificates issued under the Equipment Trust Agreement) therein or result in a lien or security interest upon any such Unit (other than the Equipment Trust Agreement and this Lease) and will supply the Lessor and the Trustee with a receipt or other evidence of such payment satisfactory to the Lessor and the Trustee; *provided, however*, that the Lessee shall be under no obligation to pay any impositions so long as it is contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the opinion of the Lessor or the Trustee, adversely affect the title, property or rights of the Lessor or the Trustee hereunder or under the Equipment Trust Agreement. If any imposition shall have been charged or levied against the Lessor or the Trustee directly and paid by the Lessor or the Trustee, the Lessee shall reimburse the Lessor or the Trustee, as the case may be, on presentation of an invoice therefor. The Lessor agrees that if, in the opinion of independent tax counsel selected by the Lessor and acceptable to the Lessee, a bona fide claim exists to all or a portion of any imposition in respect of which the Lessee has made payment to the Lessor as aforesaid, the Lessor shall, upon request and at the expense of the Lessee, take all such legal or other appropriate action deemed reasonable by said independent counsel in order to sustain such claim. The Lessor shall not be obligated to take any such legal or other appropriate action unless the Lessee shall first have indemnified the Lessor for all liabilities and expenses which may be entailed therein and shall have furnished the Lessor with such reasonable security therefor as may be requested. The Lessee shall be entitled to the proceeds of the successful prosecution of any such claim.

In the event any reports with respect to impositions are required to be made, the Lessee will either make such reports in such manner as to show the interests of the Lessor and the Trustee in the Units, if such is necessary or appropriate, or will notify the Lessor and the Trustee of such requirement and will make such reports in such manner as shall be satisfactory to the Lessor and the Trustee.

In the event that, during the continuance of this Lease, the Lessee shall become liable for the payment or reimbursement of any impositions pursuant to this § 5, such liability shall continue, notwithstanding the termination of this Lease, until all such impositions are paid or reimbursed by the Lessee.

§ 6. *Payment for Casualty Occurrences.* Whenever any Unit shall be or become worn out, lost, stolen, destroyed or irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term or any extended term of this Lease, or until such Unit shall have been returned in the manner provided in § 13 hereof, the Lessee shall, promptly after it shall have been determined that such Unit has suffered a Casualty Occurrence, deliver to the Lessor and the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement) fully informing them with respect thereto and complying with the provisions of Section 5.07 of the Equipment Trust Agreement. On the rental payment date next succeeding the delivery of such Lessee's Certificate (or, in the event such rental payment date will occur within 60 days after such delivery, on the following rental payment date or, if this Lease, or any extended term hereof, as the case may be, shall expire before or within 60 days after such delivery on the expiration date of this Lease, or any such extended term, or any other date thereafter, within 60 days of such delivery or, in the event that such Unit shall not have then been settled for pursuant to Section 4.02 of the Equipment Trust Agreement at the time of such delivery, on the date such Unit would have been settled for but for such Casualty Occurrence) the Lessee shall pay to the Lessor an amount equal to the accrued rental for such Unit to the date of such payment plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of such payment date in accordance with the schedule set out below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit (other than additional rental payable pursuant to clause (ii) of the fourth sentence of the first paragraph of § 2 hereof) shall cease to accrue as of the date of such payment, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall

be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the original or any extended term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee in addition to paying the Casualty Value for such Unit shall pay interest thereon at the prime rate of interest which the Trustee would charge on the date of such payment for 90-day loans to borrowers of the highest credit standing, from the end of such term to the date of such payment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have been lost, stolen or completely destroyed, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit.

Except as provided in the last sentence of this paragraph, the Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to Section 5.07 of the Equipment Trust Agreement or (y) that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

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12	96.4984	28	29.4999
13	93.4821	29	24.7589
14	88.9359	30	19.9107
15	82.4033	31 and thereafter	15.0000
16	78.9841		

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in § 11 hereof, the Lessee represents and warrants that (i) all of the Units constitute property the entire Cost of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer;

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

In the event that the Trust Certificates shall bear dividends on the unpaid principal amount thereof at a rate other than 8.40% per annum, the Lessor and the Lessee shall enter into an appropriate supplement to this Lease appropriately modifying the provisions hereof, including §§ 2, 6 and 12 hereof, in such manner that the rental payable hereunder shall be sufficient to discharge the Lessor's obligations under Sections 5.04(c), (d) and (e) of the Equipment Trust Agreement and the Lessor shall be provided with a net return hereunder equal to the net return that would have been available to the Lessor hereunder if the Trust Certificates had been issued to persons other than the Lessor and had borne dividends at a rate equal to 8.40% per annum.

§ 20. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of April 1, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§ 22. *Obligations of Lessor Under Equipment Trust Agreement.*

In the event that the Lessor shall become obligated to make any payment (other than pursuant to Section 4.03 of the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than pursuant to Section 4.03 of the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with. The Lessor will pay over to the Lessee any amounts received by it pursuant to the last sentence of Section 9.04 of the Equipment Trust Agreement.

§ 23. *No Recourse.*

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against any beneficiary of a trust for which the Lessor is acting as Trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

§ 24. *Provisions Concerning Subordinated Notes.*

It is the intention of the parties hereto that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee covenants and agrees that if an Event of Default exists hereunder or an Event of Default (as defined in the Equipment Trust Agreement) exists under the Equipment Trust Agreement or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

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§ 25. *Increase of User Rates.* The Lessee covenants and agrees (i) that, if an Event of Default exists under § 9(A) hereof by reason of the failure of the Lessee to pay to the Trustee within the grace period provided in § 9(A) hereof, all or any part of the rentals due and payable under § 2 hereof required for the payment of the principal of or dividends on the Trust Certificates (but not including any principal or dividends payable by reason of acceleration of the date of payment thereof), the Lessee will, upon written notice by the Lessor so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, unless in connection with an assignment or transfer to a corporation which shall acquire all or substantially all of the property of the Lessee pursuant to Section 5.09 of the Equipment Trust Agreement, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay all such overdue principal and dividends (with interest on overdue principal and dividends at the Penalty Rate, to the extent that it shall be legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in § 11 hereof, the Lessee represents and warrants that (i) all of the Units constitute property the entire Cost of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer;

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

In the event that the Trust Certificates shall bear dividends on the unpaid principal amount thereof at a rate other than 8.40% per annum, the Lessor and the Lessee shall enter into an appropriate supplement to this Lease appropriately modifying the provisions hereof, including §§ 2, 6 and 12 hereof, in such manner that the rental payable hereunder shall be sufficient to discharge the Lessor's obligations under Sections 5.04(c), (d) and (e) of the Equipment Trust Agreement and the Lessor shall be provided with a net return hereunder equal to the net return that would have been available to the Lessor hereunder if the Trust Certificates had been issued to persons other than the Lessor and had borne dividends at a rate equal to 8.40% per annum.

§ 20. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of April 1, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§ 22. *Obligations of Lessor Under Equipment Trust Agreement.*

In the event that the Lessor shall become obligated to make any payment (other than pursuant to Section 4.03 of the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than pursuant to Section 4.03 of the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with. The Lessor will pay over to the Lessee any amounts received by it pursuant to the last sentence of Section 9.04 of the Equipment Trust Agreement.

§ 23. *No Recourse.*

No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against any beneficiary of a trust for which the Lessor is acting as Trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

§ 24. *Provisions Concerning Subordinated Notes.*

It is the intention of the parties hereto that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee covenants and agrees that if an Event of Default exists hereunder or an Event of Default (as defined in the Equipment Trust Agreement) exists under the Equipment Trust Agreement or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

§ 25. *Increase of User Rates.* The Lessee covenants and agrees (i) that, if an Event of Default exists under § 9(A) hereof by reason of the failure of the Lessee to pay to the Trustee within the grace period provided in § 9(A) hereof, all or any part of the rentals due and payable under § 2 hereof required for the payment of the principal of or dividends on the Trust Certificates (but not including any principal or dividends payable by reason of acceleration of the date of payment thereof), the Lessee will, upon written notice by the Lessor so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, unless in connection with an assignment or transfer to a corporation which shall acquire all or substantially all of the property of the Lessee pursuant to Section 5.09 of the Equipment Trust Agreement, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay all such overdue principal and dividends (with interest on overdue principal and dividends at the Penalty Rate, to the extent that it shall be legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

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Notary Public

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COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

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Notary Public

[NOTARIAL SEAL]

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COUNTY OF COOK } ss.:

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Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

SCHEDULE A

<u>Type</u>	<u>Quantity</u>	<u>Lessee's Car Numbers (All Inclusive)</u>	<u>Unit Cost</u>	<u>Total Cost</u>
89'4" 70-ton capacity, standard level, auto frame flat cars	70	603576 to 603645	\$15,310.00	\$1,071,700.00
89'4" 70-ton capacity, standard level, all purpose flat cars	56	970745 to 970747 970750 970752 to 970803	21,300.00	1,192,800.00
89'4" 70-ton capacity, standard level, auto frame flat cars	62	158315 to 158376	15,295.00	948,290.00
	36	964117 to 964152	17,950.00	646,200.00
89'4" 70-ton capacity, standard level, auto rack flat cars	7	940773 to 940779	17,550.91	122,856.37
89'4" 70-ton capacity, standard level, auto frame flat cars	70	253650 to 253719	15,300.00	1,071,000.00
89'4" 70-ton capacity, standard level, all purpose flat cars	10	972966 to 972975	21,357.00	213,570.00
	<u>311</u>			<u>\$5,266,416.37</u>